

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 SP-02 USIA-06 EB-07 NSC-05 CIEP-01
TRSE-00 SS-15 STR-04 OMB-01 CEA-01 CIAE-00 INR-07
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R 121523Z JAN 77
FM AMEMBASSY MOSCOW
TO SECSTATE WASHDC 3000
INFO AMEMBASSY BELGRADE
AMEMBASSY BERLIN
USMISSION BERLIN
AMEMBASSY BUCHAREST
AMEMBASSY BUDAPEST
USMISSION NATO
AMEMBASSY OTTAWA
AMEMBASSY PRAGUE
AMEMBASSY SOFIA
AMEMBASSY VIENNA
AMEMBASSY WARSAW

C O N F I D E N T I A L MOSCOW 0502

E.O. 11652: GDS
TAGS: EFIN, CEMA
SUBJECT: IBEC \$200 MILLION BORROWING NOW IN DIFFICULTY

REF: 76 MOSCOW 18578

SUMMARY. WE ARE INFORMED THAT IBEC \$200 MILLION LOAN
(REFTEL), ALTHOUGH OVERSUBSCRIBED BY NORTH AMERICAN BANKS,
HAS RUN INTO AT LEAST TEMPORARY DIFFICULTY. WESTERN BANKING SOURCE
HERE ADVISES THAT LAWYERS HAVE BELATEDLY "DISCOVERED" THAT IBEC, AS
INTERNATIONAL ORGANIZATION, CANNOT BE SUED. LATEST LOAN HAS
THEREFORE NOT YET BEEN SIGNED, AND LEADING BANKS OF SYNDI-
CATE ARE ADVISING OTHER SUBSCRIBERS ACCORDINGLY. ACCORDING
TO SOURCE, THIS DEVELOPMENT NOT ONLY CASTS DOUBT ON LOAN UNDER
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REFERENCE BUT ALSO RAISES QUESTIONS ABOUT STATUS OF PAST
LOANS, TO IBEC AND IIB, WHERE LEADING BANKS DID NOT MEET LEGAL
OBLIGATION TO INFORM SUBSCRIBERS THAT IN CASE OF DEFAULT, THEY
HAVE NO LEGAL RECOURSE. SOURCE STATES THAT INFORMATION IS BEING
CLOSELY HELD, PENDING SOME SOLUTION, LEST THERE BE RASH OF
LAW SUITS ABOUT PRIOR LOANS. END SUMMARY.

1. RELIABLE WESTERN BANKER, REQUESTING THAT INFORMATION BE HELD IN STRICTEST CONFIDENCE, TOLD E/C COUNSELOR JANUARY 12 THAT LATEST \$200 MILLION BORROWING BY CEMA INTERNATIONAL BANK FOR ECONOMIC COOPERATION (IBEC) IS PRESENTLY IN DIFFICULTY. ALTHOUGH THE LOAN WAS OVERSUBSCRIBED, AND MORE THAN EIGHT BANKS WERE PREPARED TO PARTICIPATE IN SYNDICATE, IT HAS BEEN "DISCOVERED" THAT IBEC, AS AN INTERNATIONAL INSTITUTION ENJOYING DIPLOMATIC STATUS, CANNOT BE SUED. LEADING SYNDICATE BANKS (BANK OF AMERICA AND TORONTO DOMINION) HAVE NOW ADVISED PARTICIPANTS OF THIS UNWELCOME NEWS. ACCORDING TO SOURCE, EVERY INTERNATIONAL SYNDICATION LOAN HAS CLAUSE PROVIDING THAT PARTIES WILL BE SUBJECT TO LAWS OF A GIVEN COUNTRY, NORMALLY U.K. FOR EURODOLLAR LOANS. WHEREAS IBEC HAS BEEN WILLING TO SIGN SUCH A CLAUSE IN THE PAST, SOURCE STATES LAWYERS HAVE CONCLUDED THAT INTERNATIONAL ORGANIZATION STATUS OF IBEC WOULD PRECLUDE A LAWSUIT IN EVENT OF DEFAULT.

2. ACCORDING TO SOURCE, THIS NOT ONLY GIVES CAUSE FOR DOUBT ABOUT CURRENT \$20 MILLION BORROWING, BUT ALSO CASTS SHADOW ON SECURITY OF PAST LOANS TO CEMA INTERNATIONAL INVESTMENT BANK (IIB) AND IBEC. OBVIOUSLY, IT ALSO WILL MAKE IT MORE DIFFICULT TO USE THIS CHANNEL FOR RAISING FUNDS IN FUTURE UNTIL A SOLUTION IS FOUND.

3. WHEREAS LEADING BANKS HAVE INFORMED OTHER BANKS IN SYNDICATE ABOUT CURRENT PROBLEM, SOURCE ADDED, NO SIMILAR ACTION HAS BEEN TAKEN WITH REGARD TO FAILURE TO INFORM ABOUT PAST LOANS. THERE IS CONSIDERABLE ANXIETY LEST PROBLEM BE CONFIDENTIAL

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AIRD IN ONE OF MANY NEWSPAPERS AND JOURNALS FOLLOWING EAST/WEST TRADE SINCE SITUATION COULD LEAD TO LAWSUITS BEING FILED AGAINST LEADING BANKS FOR NOT MEETING OBLIGATION TO PROVIDE ESSENTIAL INFORMATION. RAMIFICATIONS OF DISCLOSURE FOR EAST/WEST TRADE COULD ALSO BE SUBSTANTIAL, HE THOUGHT.

4. SOURCE SAID THAT SOLUTION COULD BE SOME STRUCTURE WHERE IBEC AND IIB, WHICH HAS SIMILAR STATUS, COULD CONFORM TO THE SENSE OF THE LEGAL CONTRACT WHICH THEY WOULD SIGN IN OBTAINING LOAN, I.E., THAT THEY WOULD AGREE THAT THEY COULD BE SUED IN COURTS OF SOME (WESTERN) COUNTRY IN THE EVENT OF DEFAULT.

5. SOURCE HAS PROMISED TO KEEP US INFORMED OF DEVELOPMENTS AND ASKED THAT WE NOT MENTION SITUATION IN ANY TALKS WITH IBEC HERE.

6. COMMENT: IN PASSING ON THE FOREGOING ACCOUNT, WHICH WE PRESUME ACCURATELY REFLECTS THE CURRENT ASSESSMENT OF THE

LEADING BANKS IN THE SYNDICATE (BANK OF AMERICA IS, HOWEVER, NOT THE SOURCE), WE ARE PUZZLED WHY STATUS OF CEMA BANKS SHOULD PRESENT A LEGAL PROBLEM THAT DOES NOT APPEAR TO TROUBLE WESTERN-ORIENTED INTERNATIONAL BANKS. IT IS ALSO SURPRISING THAT THIS ISSUE, IF IT IS SERIOUS, DID NOT OCCUR TO THE LEGAL EXPERTS OF MAJOR BANKS BEFORE. IT ALSO SEEMS TO US RATHER UNLIKELY THAT THERE WOULD BE LAWSUITS AGAINST THESE BANKS OVER PAST LOANS TO IBEC OR IIB UNLESS THERE IS AN ACTUAL DANGER OF DEFAULT. WHILE WE ARE UNABLE TO PROVIDE COMMENT ON TECHNICAL QUESTION OF WHAT STEPS MAY APPEAR NECESSARY TO MAKE IBEC AND IIB SUBJECT TO LEGAL RECOURSE BY LENDERS, WE NOTE THAT THE CONSIDERABLE INTEREST OF USSR AND PRESUMABLY OTHER CEMA MEMBERS IN USING THIS VEHICLE FOR BORROWING HARD CURRENCY APPEARS TO COINCIDE WITH ENTHUSIASM OF WESTERN BANKERS FOR SUBSCRIBING TO THESE VENTURES. IN VIEW OF THIS COMMON INTEREST, IT STRIKES US AS LIKELY THAT A SOLUTION TO THE IMPEDIMENT WILL SOON BE FOUND. SHOULD THE
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STORY LEAK OUT BEFORE THERE IS A SOLUTION, HOWEVER, THERE COULD BE A GOOD SUPPLY OF AMMUNITION FOR REPORTERS AND COMMENTATORS AND SOME UNPLEASANT DAYS FOR BANKERS AND LAWYERS.
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